

UNITED STATES DISTRICT COURT
 for the
 District of Montana

United States of America

v.

Erik Joseph Perlberg

)

) Case No: CR 23-90-BLG-SPW

)

) USM No: 72592-510

Date of Original Judgment: 03/20/2024)

Date of Previous Amended Judgment: _____)

(Use Date of Last Amended Judgment if Any) _____)

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
 PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of the defendant the Director of the Bureau of Prisons the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

DENIED. GRANTED and the defendant's previously imposed sentence of imprisonment (*as reflected in the last judgment issued*) of _____ months is reduced to _____.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Defendant seeks a sentence reduction under the retroactive application to the criminal history rules of Amendment 821 to the United States Sentencing Guidelines. (Doc. 42.) Defendant is clearly ineligible.

Part A limits the overall criminal history impact of "status points" for offenders who committed the instant offense while under a criminal justice sentence. Part B, subpart 1 provides a two-level offense level decrease for offenders who did not receive any criminal history points under Chapter Four and whose instant offense did not involve specific aggravating factors. *See* USSG Ret. App. A & B, Sub. 1 Amendment 821 "Reasons for Amendment" (Nov. 1, 2023).

Here, Defendant was sentenced on March 20, 2024, under the current Guidelines, he did not receive any status points, and his total criminal history score was three, not zero. (*See* Judg. at 1; PSR ¶¶ 43-45.) Because Defendant is clearly ineligible for a sentence reduction under the retroactive application of Amendment 821, his motion is denied.

Except as otherwise provided, all provisions of the judgment dated 03/20/2024 shall remain in effect.

IT IS SO ORDERED.

Order Date: 05/07/2024


 Susan P. Watters
 Judge's signature

Effective Date: _____
(if different from order date)

Susan P. Watters, District Judge

Printed name and title